

REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 16-21, 23-24, and 26-27 were pending in the application, of which Claims 16, 23, and 26 are independent. In the Office Action dated September 29, 2009, Claims 16-21, 23-24, and 26-27 were rejected under 35 U.S.C. § 103(a). Applicants hereby address the Examiner's rejections in turn.

I. Rejection of Claims Under 35 U.S.C. § 103(a)

In the Office Action dated September 29, 2009, the Examiner rejected Claims 16-21, 23-24, and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over WO Pub. No. 01/56297 ("*Naden*") in view of U.S. Pat. Pub. No. 2004/0177381 ("*Kliger*") and further in view of U.S. Patent No. 6,493,873 ("*Williams*").

Claims 16, 23, and 26 have been amended, and Applicants respectfully submit that the amendments overcome this rejection and add no new matter. Claim 16 is patentably distinguishable over the cited art for at least the reason that it recites, for example "a processor configured to receive notifications identifying unused frequencies, wherein the unused frequencies are identified from a frequency map provided by a service provider". Independent claims 23 and 26 include a similar limitation. Support for these amendments can be found in the specification at least in paragraphs [0017] and [0020].

Naden fails to disclose the above-emphasized limitation. For example, *Naden* merely appears to disclose satellite TV receivers capable of inputting TV signals into a master STB where they are terminated at an RF switch. (6:26-27). The RF switch may

be controlled by control signals originating from a slave STB. (7:1-3). The resulting output may be provided to a plurality of TV tuners. (7:4-11). The master STB may contain a video memory system which may be controlled through remote control interfaces associated with either the master STB or a slave STB. (11:22-12:25).

Kliger appears to disclose an active reflector 36 which may modulate the legacy set-top box signal into a band "not normally used in the house". (*Kliger*, para [0022]). Thus, in *Kliger*, the signal is modulated at the switch as opposed to prior to arriving at the switch. *Kliger* teaches directly away from this limitation in Claim 16. Furthermore, *Kliger* fails to teach a processor to receive notifications identifying unused frequencies to be used by the modulator. *Kliger* simply guesses whether a band is available based on the frequency of use of a particular range of bands. (*Kliger*, para [0022]).

Williams fails to remedy the deficiencies of *Naden* and/or *Kliger*. *Williams* merely appears to disclose detecting power levels of channels to determine if the channel band is empty and may be used with one or more signals to be transmitted. (11:22-67). A list of empty or unused frequency bands may be stored in a non-volatile memory. (12:1-16). Nowhere does *Williams* contemplate receiving a frequency map from a service provider, as *Williams* teaches independent testing of frequencies to determine availability.

For at least the reason that *Naden*, *Kliger*, and/or *Williams* fail to disclose, teach or suggest "a second DHCT coupled to the switch and configured to process a portion of the downstream satellite signals in accordance with a tuned frequency and polarization, and configured to receive the requested presentations from the first DHCT via the switch, wherein the second DHCT has access to all of the hardware and

software functionality of the first DHCT", Applicant respectfully submits that *Naden*, *Kliger*, and/or *Williams* do not anticipate Claim 16. Claims 23 and 26 contain similar limitations. Therefore, Applicant requests that the rejection of Claims 16, 23, and 26 be withdrawn.

Dependent Claims 17-21, 24, and 27 are also allowable at least for the reasons described above regarding independent Claims 16, 23, and 26 by virtue of their respective dependencies upon independent Claims 16, 23, and 26. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claims 17-21, 24, and 27.

III. Conclusion

In view of the foregoing remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,
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